
STATUTORY INSTRUMENTS

1986 No. 1925

The Insolvency Rules 1986

THE THIRD GROUP OF PARTS

PART 13

INTERPRETATION AND APPLICATION

Introductory

13.1. This Part of the Rules has effect for their interpretation and application; and any definition given in this Part applies except, and in so far as, the context otherwise requires.

“The court”; “the registrar”

13.2.—(1) Anything to be done under or by virtue of the Act or the Rules by, to or before the court may be done by, to or before a judge or the registrar.

(2) The registrar may authorise any act of a formal or administrative character which is not by statute his responsibility to be carried out by the chief clerk or any other officer of the court acting on his behalf, in accordance with directions given by the Lord Chancellor.

(3) In individual insolvency proceedings, “the registrar” means a Registrar in Bankruptcy of the High Court, or the registrar or deputy registrar of a county court.

(4) In company insolvency proceedings in the High Court, “the registrar” means—

- (a) subject to the following paragraph, a Registrar in Bankruptcy of the High Court;
- (b) where the proceedings are in the District Registry of Birmingham, Bristol, Cardiff, Leeds, Liverpool, Manchester, Newcastle-upon-Tyne or Preston, the District Registrar.

(5) In company insolvency proceedings in a county court, “the registrar” means the officer of the court whose duty it is to exercise the functions which in the High Court are exercised by a registrar.

“Give notice”, etc

13.3.—(1) A reference in the Rules to giving notice, or to delivering, sending or serving any document, means that the notice or document may be sent by post, unless under a particular Rule personal service is expressly required.

(2) Any form of post may be used, unless under a particular Rule a specified form is expressly required.

(3) Personal service of a document is permissible in all cases.

(4) Notice of the venue fixed for an application may be given by service of the sealed copy of the application under Rule 7.4(3).

Notice, etc. to solicitors

13.4. Where under the Act or the Rules a notice or other document is required or authorised to be given to a person, it may, if he has indicated that his solicitor is authorised to accept service on his behalf, be given instead to the solicitor.

Notice to joint liquidators, joint trustees, etc

13.5. Where two or more persons are acting jointly as the responsible insolvency practitioner in any proceedings, delivery of a document to one of them is to be treated as delivery to them all.

“Venue”

13.6. References to the “venue” for any proceeding or attendance before the court, or for a meeting, are to the time, date and place for the proceeding, attendance or meeting.

“Insolvency proceedings”

13.7. “Insolvency proceedings” means any proceedings under the Act or the Rules.

“Insolvent estate”

13.8. References to “the insolvent estate” are—

- (a) in relation to a company insolvency, the company's assets, and
- (b) in relation to an individual insolvency, the bankrupt's estate or (as the case may be) the debtor's property.

“Responsible insolvency practitioner”, etc

13.9.—(1) In relation to any insolvency proceedings, “the responsible insolvency practitioner” means —

- (a) the person acting in a company insolvency, as supervisor of a voluntary arrangement under Part I of the Act, or as administrator, administrative receiver, liquidator or provisional liquidator;
- (b) the person acting in an individual insolvency, as the supervisor of a voluntary arrangement under Part VIII of the Act, or as trustee or interim receiver;
- (c) the official receiver acting as receiver and manager of a bankrupt's estate.

(2) Any reference to the liquidator, provisional liquidator, trustee or interim receiver includes the official receiver when acting in the relevant capacity.

“Petitioner”

13.10. In winding up and bankruptcy, references to “the petitioner” or “the petitioning creditor” include any person who has been substituted as such, or been given carriage of the petition.

“The appropriate fee”

13.11. “The appropriate fee” means—

- (a) in Rule 6.192(2) (payor under income payments order entitled to clerical etc. costs), 50 pence; and

- (b) in other cases, 15 pence per A4 or A5 page, and 30 pence per A3 page.

“Debt”, “liability” (winding up)

13.12.—(1) “Debt”, in relation to the winding up of a company, means (subject to the next paragraph) any of the following—

- (a) any debt or liability to which the company is subject at the date on which it goes into liquidation;
- (b) any debt or liability to which the company may become subject after that date by reason of any obligation incurred before that date; and
- (c) any interest provable as mentioned in Rule 4.93(1).

(2) In determining for the purposes of any provision of the Act or the Rules about winding up, whether any liability in tort is a debt provable in the winding up, the company is deemed to become subject to that liability by reason of an obligation incurred at the time when the cause of action accrued.

(3) For the purposes of references in any provision of the Act or the Rules about winding up to a debt or liability, it is immaterial whether the debt or liability is present or future, whether it is certain or contingent, or whether its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion; and references in any such provision to owing a debt are to be read accordingly.

(4) In any provision of the Act or the Rules about winding up, except in so far as the context otherwise requires, “liability” means (subject to paragraph (3) above) a liability to pay money or money's worth, including any liability under an enactment, any liability for breach of trust, any liability in contract, tort or bailment, and any liability arising out of an obligation to make restitution.

Expressions used generally

13.13.—(1) “Business day” —

- (a) in relation to the High Court has the same meaning as in Order 65, Rule 5(4), and
- (b) in relation to a county court means any day on which the court office is open in accordance with Order 2, Rule 2 of the County Court Rules.

(2) “The Department” means the Department of Trade and Industry.

(3) “File in court” means deliver to the court for filing.

(4) “The Gazette” means the London Gazette.

(5) “General regulations” means regulations made by the Secretary of State under Rule 12.1.

(6) “Prescribed order of priority” means the order of priority of payments laid down by Chapter 20 of Part 4 of the Rules, or Chapter 23 of Part 6.

Application

13.14.—(1) Subject to paragraph (2) of this Rule, and save where otherwise expressly provided, the Rules apply—

- (a) to administrative receivers appointed on or after the day on which the Rules come into force,
- (b) to bankruptcy proceedings where the bankruptcy petition is presented on or after the day on which the Rules come into force, and
- (c) to all other insolvency proceedings commenced on or after that day.

(2) The Rules also apply to winding-up and bankruptcy proceedings commenced before that day to which provisions of the Act are applied by Schedule 11 to the Act, to the extent necessary to give effect to those provisions.